

IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF GEORGIA

IN RE: * CHAPTER 13
LESLIE MCDANIEL, * CASE NO. 12-41231-JTL
Debtor, *
-

LESLIE MCDANIEL, Individually and as *
Representative of her Bankruptcy Estate, *
*
Plaintiff, * ADVERSARY PROCEEDING
*
vs. * NO. 13-04013
*
SUNTRUST BANK, SUNTRUST *
MORTGAGE, INC., MCCALLA *
RAYMER, LLC, FOXFIRE ACRES, INC., *
THE UNITED STATES by and through the *
INTERNAL REVENUE SERVICE, *
THE STATE OF GEORGIA (Represented *
By the DEPARTMENT OF REVENUE), *
THE GROGAN GROUP, LLC d/b/a *
GROGAN & GROGAN, and THE *
COLUMBUS CONSOLIDATED *
GOVERNMENT, *
Defendants.

**DEFENDANT COLUMBUS CONSOLIDATED GOVERNMENT'S
MOTION TO DISMISS COMPLAINT**

Comes now the Defendant **Columbus Consolidated Government** ("Columbus") and pursuant to Bankruptcy Rule 7012 (b)(6) files this Motion to Dismiss Plaintiff's Complaint as to Columbus and in support thereof shows as follows:

1.

The above-styled Complaint asserts a number of causes of action against multiple Defendants, one of which is Columbus.

2.

Plaintiff asserts a claim against Columbus only in Count V of the Complaint, not for any damages or declaratory relief as to the rights of Columbus, but as a potential and speculative party to a Motion to Sell Real Estate which is not ripe for adjudication.

3.

Plaintiff alleges that Columbus has a lien on real estate that is the subject of the Adversary Proceeding. Columbus does not deny that. However, the only relief sought in Plaintiff's Complaint as to Columbus is authorization for a sale free and clear of liens pursuant to 11 U.S.C. § 363 (f).

4.

Plaintiff has failed to state a claim against Columbus in the Adversary Proceeding and its Motion to Sell Real Estate on which Columbus holds a lien is vague, speculative, and not timely.

5.

Columbus submits that the Complaint fails to state a claim against the Columbus Consolidated Government on which the Court may adjudicate at this time.

WHEREFORE, the Columbus Consolidated Government moves the Court to dismiss the above-styled action as to the Columbus Consolidated Government; and, for any and all further relief as the Court may deem just and appropriate.

This 19th day of November, 2013.

PAGE, SCRANTOM, SPROUSE,
TUCKER & FORD, P.C.

By: S/Stephen G. Gunby
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CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the above and foregoing **Defendant Columbus Consolidated Government's Motion to Dismiss Complaint** upon all parties by mailing same in the United States Mail with the appropriate postage to the parties listed below.

This 19th day of November, 2013.

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Government